IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10275 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

P.M.BHATT

Versus

M.R.MEENA

Appearance:

1. Special Civil Application No. 10275 of 2004

MR AR THACKER for Petitioner No. 1

MR PJ MEHTA for Respondent No. 1

DS AFF.NOT FILED (N) for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 04/10/2004

ORAL JUDGEMENT

1. Rule. Mr.M.S.Rao, learned AGP waives service of rule for respondent No.2. Mr.P.J.Mehta, learned advocate waives service of rule for respondent No.1.

2. This petition is filed by one Shri P.M.Bhatt, the Principal of J.B.Thakker Commerce College, being aggrieved of an order passed by the Assistant Provident Fund Commissioner dated 25th May 2004, calling upon the petitioner to pay the amount payable under the Employee's Provident Fund and Misc.Provisions Act, 1952.

3. In response to the notice issued by this Court on 23rd August 2004, the learned AGP Mr.M.S.Rao placed on record Xerox copies of, a letter dated 10th September 2004, letter dated 23rd September 2004 and letter dated 10th September 2004, addressed to (i) Government Pleader, High Court of Gujarat, (ii) Commissioner, Higher Education, Gujarat State and (iii) Assistant Provident Fund Commissioner, respectively. From these letters it is borne out that, 'J.B.Thakker Commerce College is granted exemption by Government Resolution No.NGC-1377-529-(78)-KH dated 03.02.1978, that, the Government is making the payment under Direct Payment Scheme and the Government is directly deducting GPF/CPF according to the Rules. Xerox copies of all these letters are also given to the learned advocate Shri P.J.Mehta, who is not able to dispute the same. He, however, submitted that, they ought to have been placed before the authority. As they are coming from the learned AGP, prima facie, there is no reason to disbelieve. In view of the aforesaid, the order passed by the respondent dated 25th May 2004 is hereby quashed and set aside. Petition is allowed. Rule is made absolute with no order as to costs.

(Ravi R.Tripathi, J.)

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